

GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare-East Godavari – Revision Petition filed Under Section 6 of A.P.S.A.L.T.R 1959 by Sri Immaneni Satyanarayana S/o Hanumantha Rao R/O Joddangi (V) Rajavommangi (M) against the orders of Additional Agent to Government in CMA No.20/2004 dated:19-02-2005 – Dismissed – Orders - Issued.

SOCIAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No: 156

Dated:02-08-2008

Read the following:

1. From Sri.Immaneni Satyanarayana, Rampachodavaram, East Godavari.
2. Govt. Memo No: 3307/LTR2/2005 dt: 19-04-2005.
3. From the Hon'ble High Court of A.P. WP No:15627/2005 dt19-07-2005.
4. From the Project Officer PO ITDA, Rampachodavaram in CMA/20/2004, dt:16-06-2005.
5. Government. Memo No:3307/LTR2/2005 dt: 30-12-05, 7-2-06, 9-3-06, 15-07-06 & 17-7-2007.

ORDER:

In the reference 1st read above Sri Immaneni Satyanarayana R/O Joddangi (V) Rajavommangi (M) East Godavari District has filed Revision Petition along with stay petition dated: 02-04-2005 before the Government against the Orders of Additional Agent to Government in CMA No: 20/2004 dated:19-02-2005 through his counsel Sri Badana Bhaskar Rao in respect of lands in RS Nos.372/2 acres 5.30; 304/2 acres 2.39, 310/1 acres 5.97, 272/1 acres 2.07, situated in Joddangi Village of Rajavommangi (M), of East Godavari District.

The main contentions of the Revision Petition among others are :

- i) Lower courts failed to see that the petitioner in pursuance of earlier sale agreement dated 1.2.1969, purchased petition schedule land from non-tribal on 30.4.1970 and hence is valid since the transaction took place before 3.2.1970 i.e. commencement of amended regulation 1/70.
- ii) The land was never in possession of tribals and vendor and vendee are non-tribals.
- iii) The lower court failed to see that 4th respondent i.e. tribal failed to adduce any evidence to substantiate his claim over the petitioner schedule property.

2. The brief history of the case is that the case was initiated on the case filed by Pusam Rambabu (Tribe) before the Special Deputy Collector Rampachodavaram Under Section 3 (1) (a) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/1959 as amended by Agency Land Transfer Regulation 1/1970. The petition schedule land was in the possession of the father of Sri Immaneni Satyanarayana from 1923 and got patta too in his name and they sold the Petition Schedule land to Koka Saraswathi (NT) in 1969 through sale agreement and the same was registered in 1970. As the petitioner re-acquired the petition schedule land from Koka Saraswathi through an unregistered sale or cowl and the possession is in violation of Sec 3 (1) (a) of Regulation 1/59 as amended by 1/70, the Special Deputy Collector (T.W) in LTRP No: 266/02 dated: 04-04-2003 ordered ejection of Sri Immaneni Satyanarayana from the Petition Schedule land and for restoration of the same to Government. Aggrieved by the order Sri Immaneni Satyanarayana filed an appeal before the Additional Agent to Government & PO ITDA Rampachodavaram, the Additional Agent to Government Rampachodavaram after hearing both the parties and on perusing material record on file held that Smt. Koka Saraswathi or any person on her behalf had not filed at least a LR Receipt so as to show that Smt.Saraswathi was in enjoyment and conducted cultivation in the PS Lands. Admittedly, the PS lands dealt with in the previous LTRP Order No.34/84, dt:27-7-84 pertained to Acres 25.59 cents in sy.No.272/1,311/1 etc., and those in the LTRP order No:266/02, dt:4-4-03 pertained to Sy.No:372/2, 304/2 etc for Acres 15-73 and hence they are not one and the same. In Land Transfer Regulation Cases, the facts/particulars as to the actual person and the date/period of being in possession of the PS Lands as per the Record and Physical verification are the chief deciding factors and the Special Deputy Tahasildar (TW) comprise the Network of the Special Deputy Collector for procurement of facts in this regard and hence the evidence of the Special Deputy Tahasildar is authenticated and upheld the Orders of the Lower Court in CMA No:20/2004

dt:19.2.2005. Aggrieved by the orders of the Additional Agent to Government, Immaneni Satyanarayana filed the present Revision Petition.

3. In the reference 2nd read above the Agent to Government, Rampachodavam was requested to furnish para-wise remarks and case records and the same were furnished in the reference 4th read above. After examination the case records notices were issued to the concerned to attend the hearing of the Revision Petition on 28-1-2006, 25-2-2006, 25-3-2006, 10-8-2006 and finally the case was heard on 24-7-2007. Both the Revision Petitioner and his counsel were absent.

4. Government after careful examination of the material evidence on record found that:

1. The unregistered sale agreement between Koka Saraswathi (non-tribal) and Immaneni Hanumantha Rao and his son Satyanarayana was held on 1.2.1969 for an extent of acres 10.00 in Sy.No.273/2, 309/2, 310/1, 272/1 in the total extent of acres 15.73 for a sale consideration of Rs.4000/- and the same was subsequently got registered as document No 457/70, dt: 30.4.1970 i.e. after commencement of Regulation 1/70 (which came into force from 3.2.1970) which is null and void as per section 3 (1) (a) of Andhra Pradesh Scheduled Areas Land Transfer Regulation 1/59 R/W 1/70.
2. Subsequently, the entire land of acres 15.73 (i.e. including acres 10.00 sold to Koka Saraswathi) is in occupation of the vendor Immaneni Satyanarayana S/o Hanumantha Rao and the vendee Koka Saraswathi is not in cultivation of land. She is old and residing in Srikakulam while her sons residing at Visakhapatnam and they never cultivated the land. Even the Form-e notice by Special Deputy Collector (TW) Rampachodavaram was also received by vendor Immaneni Satyanarayana only. Despite sufficient opportunity, Koka Saraswathi or her sons never attended the court and no evidence was produced to prove their possession over the suit schedule land. Thus, during the field enquiry also, it was established that the vendors are in continuous possession and show that the land might have been re-transferred to the vendor unauthorisedly. Hence, the Special Deputy Collector (TW) Rampachodavaram held that the respondents i.e. vendors Immaneni Hanmumantha Rao and his son Satyanarayana reacquired the PS land of Acres 10.00 covered by the above sale deed from the vendor either through unregistered sale deed or on lease which is violative of section 3 (1) (a) of Regulation 1/59 as amended by Regulation 1/70.
3. The unregistered sale deed dt:1.2.1969 between the Revision Petitioner and Koka Saraswathi for an extent of Acres 10.00 cannot be taken into consideration as "The Chapter III, Section 54 of Transfer Property Act, 1882 defined that in case of tangible immovable property of the value of hundred rupees and upwards, or in the case of a reversion or other tangible thing can be made only by a registered document." In the instant case, the transaction was for Rs.4,000/-.Moreover, the Hon'ble High Court of Andhra Pradesh in C.R.P.No.1087/96, dt: 10.8.1998 (Bangaru Rama Thulisamma Vs Yada Mastan Reddy) also held that unstamped and unregistered sale deeds cannot be taken as an evidence of proof according to section 17 "B" of Registration Act.

5. Government after careful examination of the case records finds no reason to interfere with the orders of Additional Agent to Government in CMA No.20/2004, dt:19-2-2005 and accordingly dismiss the Revision Petition. The stay granted by the Hon'ble High Court of Andhra Pradesh in W.P No:15627/05, dated:19-07-2005 shall become inoperative.

6. The Collector, East Godavari District is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**V.NAGI REDDY,
Prl.SECRETARY TO GOVERNMENT**

To
The Collector, East Godavari District.

The Additional Agent to Government & PO ITDA
Rampachodavaram, East Godavari District.
The Special Deputy Collector (TW),
Rampachodavaram, East Godavari District.
The Mandal Revenue Officer, Rajavommangi (M),
East Godavari District.
Sri.Immaneni Satyanarayana S/o Hanumantha Rao
R/o Rajavommangi (M),East Godavari.
Sri.Pusam Rambabu, S/o Nagannadoa,
R/o Rajavommangi (M) East Godavari.
Sri. Badana Bhaskara Rao, Advocate,
201, Royal Residency, Humayun Nagar, Hyderabad.
Copy to the P.S.to M(TW&RIAD)
SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER